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Japan-Commerce Treaty VII Japan File

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Dear Mr. Kearns:

In response to your request of April 15, I have looked into the matter of Japanese nationals and companies engaging in wholesaling and other activities connected with the distribution of goods in the United States.

Our Treaty of Friendship, Commerce and Navigation of 1953 between the United States and Japan sets forth the terms on which the nationals and companies of either country may engage in commercial activities in the territories of the other. Article VII, paragraph 1, of the Treaty provides:

"Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other business activities within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity. Accordingly, such nationals and companies shall be permitted within such territories: (a) to establish and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business; (b) to organize companies under the general company laws of such other Party, and to acquire majority interests in companies of such other Party; and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietorships, companies or otherwise, shall, in all that relates to the conduct

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of the activities thereof, be accorded treatment no less favorable than that accorded like enterprises controlled by nationals and companies of such other Party."

Under this provision, accordingly, Japanese nationals and companies would be entitled to engage in a wholesaling business or other activity connected with the distribution of goods in the United States on the same basis as United States citizens or corporations. The treaty provision, of course, is stated in mutual terms, and United States citizens and corporations enjoy under it a comparable right to engage in wholesaling and like activities in Japan.

With the increase of United States export trade and more particularly with the growth of American investment activities in Japan, it is probable that more United States business enterprises will seek to maintain and operate their own distribution organizations in that country. If we were to discourage Japanese nationals or business enterprises from engaging in commercial activities in the United States, it may not only raise questions of possible treaty violation but lead to the impairment of important rights which American citizens and companies enjoy in Japan.

Sincerely yours,

Thomas C. Mann
Assistant Secretary

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